MONTANA LEGISLATIVE HISTORY

Chapter 97 19 75

Bill H 457 S _____ Original bill & history ✓ C

H. Committee on State Admin

Hearing Date(s)		C
		C
	2/22	✓ C
		C
Date Out	2/22	✓ C

S. Committee on Labor & Emp. Rel.

Hearing Date(s)		C
		C
	3/5	✓ C
		C
	Out 3/5	✓

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 457

INTRODUCED BY GILLIGAN, JOHNSON, LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT SUBMISSION OF A NEGOTIATED SETTLEMENT TO THE LEGISLATURE MAY MEET STATE GOVERNMENT'S REQUIREMENT OF NEGOTIATING IN GOOD FAITH; AMENDING SECTION 59-1605, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 59-1605, R.C.M. 1947, is amended to read as follows:

"59-1605. Unfair labor practices of employer or labor organization. (1) It is an unfair labor practice for a public employer to:

(a) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 3 [59-1603] of this act;

(b) dominate, interfere, or assist in the formation or administration of any labor organization; however, subject to rules adopted by the board under section 12 (3), an employer is not prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(c) discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; however, nothing in this act or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative to require that an employee who is not or does not become a union member shall be required as a condition of employment to have an amount equal to the union initiation fee and monthly dues deducted from his wages in the same manner as checkoff of union dues;

(d) discharge or otherwise discriminate against an employee because he has signed or filed an affidavit, petition, or complaint or given any information or testimony under this act;

(e) refuse to bargain collectively in good faith with an exclusive representative.

(2) It is an unfair labor practice for a labor organization or its agents to:

(a) restrain or coerce employees in the exercise of the right guaranteed in subsection (1) of section 3 of this act, or a public employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(b) refuse to bargain collectively in good faith with a public employer, if it has been designated as the exclusive representative of employees;

INTRODUCED BILL

(c) use agency shop fees for contributions to political candidates or parties at state or local levels.

(3) For the purpose of this act, to bargain collectively is the performance of the mutual obligation of the public employer, or his designated representatives, and the representatives of the exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

(4) For purposes of state government only, the requirement of negotiating in good faith may be met by the submission of a negotiated settlement to the legislature in the executive budget, or by bill or joint resolution. The failure to reach a negotiated settlement for submission is not, by itself, prima facie evidence of a failure to negotiate in good faith.

~~(4)~~ (5) This act does not limit the authority of the legislature, any political subdivision or the governing body, relative to appropriations for salary and wages, hours, fringe benefits, and other conditions of employment."

-End-

STATE ADMINISTRATION COMMITTEE

February 22, 1975

The meeting of the State Administration Committee was called to order on this date with Chairman Brand presiding. All members were present with the exception of Representative Seifert and Representative Teague was excused.

HB 457 - Representative Gilligan, sponsor, stated that this was a bill requested by the Governor's office. He then turned testimony over to Mr. Evan Barrett, representative from the Governor's Office.

Mr. Barrett stated that this bill was dealing with collective bargaining and that it came into our state in 1973. At the same time the Legislature passed the appropriations for the 1973-75 biennium. He further stated that subsequent to that we had discussions with representatives of employees about possibilities in budget terms. As things developed with wage classification planning, it became impossible to negotiate wage contracts when the budget was being built and the budget was being determined by wage classification plans. He further stated that their purpose now is to settle on wages and have them submitted with the budget to the Legislature. We want to get input into the budget before the Legislature meets.

George Hammond, AFL-CIO and AFSCME, was a proponent. He stated that this bill classifies collective bargaining.

Other proponents were Lonny Mare, Retail Clerks Union; Bev Reinhart, Retail Clerks Union; and Tom Schneider.

Representative Mular wanted to know if this would set up what is negotiated and strip the legislators of their right to renegotiate this in legislature. Evan Barrett stated that the final decision lies in the hands of the Legislature. All we are doing is setting up guidelines by the employees to give estimated amounts of how much money they will need for their budgets.

HB 458 - Representative Gilligan, sponsor, simply stated that this was a bill inconnection with HB 457.

Evan Barrett stated that this was put in to clarify the way the wage situation is now. He stated that those classifications of wages have to be negotiable and the legislation is submitted to make it relatively clear. He stated that this piece of legislation makes it specific that wages are negotiable.

Mr. Hammond, AFL-CIO, stated that this further clarifies in detail what the collective bargaining already applies.

Lonny Mare and Jim Murry, both proponents stated that this just clarifies present laws. Mr. Murry stated that with the classification plan as put together has considerable opposition from unions involved. The unions felt they didn't have any input into the plans that the laws provide for. (For further testimony, see attached)

HB 457 - Representative O'Connell made the motion of do pass. Representative Mular seconded the motion. It passed unanimously.

HB 458 - Representative Hageman made the motion of do not pass. Representative Mular seconded the motion. It passed with Represent. Bardanouve, Hubing and lund voting negative.

HB 257 - Representative Hageman made the motion of do not pass. Representative Lien made a substitute motion to amend the bill. Representative Kropp seconded the motion. It did not pass. Represent. Mular made a substitute motion of do pass. Representative Kanduch seconded the motion. It passed with Representatives Hageman, Lien, and Kropp voting negative.

HB 293 - Representative Mular made the motion of do pass. Represent Kanduch seconded the motion. It passed unanimously.

HB 451 - Representative Mular made the motion of do pass. Represent O'Connell seconded the motion. It passed with Representatives Hage Hubing, Lund, and Kropp voting negative.

HB 452 - Representative Mular made the motion of do pass. Representative Kanduch seconded the motion. It passed unanimously.

HB 664 - Representative Hageman nade the motion of do pass as amend Representative Mular seconded the motion. It passed as amended.

HB 621 and 595 - Representative Lien gave a brief description of SB and then described the amendments to HB 621 and stated that HB 595 had been incorporated into HB 621.

Representative Hageman moved to hold indefinitely HB 595 and SB 8 a pass HB 621 as amended. Representative Lien seconded the motion. It passed with Representatives Bardanouve, Kropp and Hubing voting negative.

With no further business, the meeting was adjourned.

Joe Brand, Chairman

lp

Executive Order Rescinding Executive Order 6-73 and establishing procedures for the executive branch to follow in the negotiation of contracts under the provisions of Title 59, Chapter 16, R.C.M. 1947.

I, THOMAS L. JUDGE, Governor of the State of Montana, pursuant to the authority vested in me, hereby rescind Executive Order 6-73 and establish the following procedures for the executive branch to follow in the negotiation of contracts under the provisions of Title 59, Chapter 16, R.C.M. 1947.

BEST COPY AVAILABLE

1. Section 59-1609 provides that the Governor or his designee shall represent the state in collective bargaining with exclusive representatives. I hereby designate the Budget Director, Office of Budget and Program Planning, Office of the Governor, or his authorized representative to represent the State of Montana in collective bargaining with an exclusive representative.

2. For assistance in representing the State in collective bargaining the Budget Director may call upon the Labor Relations Unit of the Department of Administration, the Personnel Division of the Department of Administration, the Directors of the Departments of the Executive Branch or their designated representatives, and any employee of the Executive Branch.

3. The Budget Director shall schedule negotiations under the collective bargaining act so that full and complete negotiations can be concluded prior to the construction of the executive budget. Any negotiated wage settlement will be included as a part of the executive budget submitted biennially to the State Legislature.

4. In pre-budgetary negotiations, the following items are negotiable:

a. classification, grade and step levels, including job descriptions, class specifications, classification factoring

methodology used to determine grade levels (including point weighting), application of the methodology to specific jobs, the allocation of grade levels to classes, selection criteria for wage surveys and actual determination of organizations to be surveyed.

b. longevity formulas

c. cost of living increases (salary schedules increases)

d. all other items authorized by Title 59, Chapter 16, R.C.M. 1947 including fringe benefits, hours, and conditions of employment.

GIVEN under my hand and the GREAT SEAL of the State of Montana this [illegible] day of [illegible] in the year of our LORD, One Thousand Nine Hundred and Seventy-Five.

THOMAS L. JUDGE, Governor

ATTEST:

Secretary of State

The twentieth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lee on the above date in Room 402 of the State Capitol Building at 9:30 a.m.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL 257: An act to provide for liens upon personal property of employers for unpaid unemployment contributions.

Representative Gilligan appeared before the committee to introduc this bill. This bill was introduced in the House at the request of Fred Barrett. This is a housekeeping bill, it changes the word commis to division and on page 2 line 12 it adds the words "and personal".

Harold Hansier, of the Montana Employment Security Division, appeared in support of the bill and to give a brief summary of what the bill does. Under the present lien procedure, a lien may be attached to personal property but it must be sold within a certain time limit. Now a lien may be attached to personal property without having to sell it. For example with a liquor license it does not have to be sold, but a lien may be attached until the tax is paid.

Jim Murry, of the AFL-CIO, appeared in support of HB 257. (See attached testimony.)

Discussion was then held by the committee.

CONSIDERATION OF HOUSE BILL 457: An act providing that submissio of a negotiated settlement to the legislature may meet state governmen requirement of negotiating in good faith.

Representative Gilligan appeared before the committee to introduc this bill. This bill deals with pre-budgetary negotiations.

Mr. Evan Barrett, of the Governors Office, appeared in support of this bill and to give a summary of what it does. This bill was introduced at the request of the Governor's Office. This bill establishes what the term "good faith bargaining" means. The basic problem is an attempt to negotiate in a timely manner. Pre-budgetary negotiations are held and then the budget is submitted to the legislature for approval or disapproval of the negotiated settlement. The main part of the bill is on page 3 starting with line 14. It is important to note that this does not limit the authority of the legislature. When we sit down and negotiate ahead of time, it keeps us in good relation with the workers. If we do sit down in good faith ahead of time and can not reach a conclusion we have still met our good faith bargaining requirements under the law. (See attached copy of Executive Order.)

Jim Murry, of the AFL-CIO, appeared in support of this bill. This is an important piece of legislation. This bill allows input from the workers into the budget making process and then it comes to the legislature for approval. This bill recognizes the constitutional authority of the legislature. This bill is important now that we have collective bargaining rights in the state of Montana. (See attached testimony.)

Don Judge, of AFSCME, AFL-CIO, appeared in support of HB 457. Mr. Judge stated that they were told a few years ago that the best solution to bargaining would be joint discussions of management and labor. This bill provides the answer to the legislature. If we com up with something both sides have agreed to, it eliminates alot of problems in the end. This is something that has been needed for a long time.

Representative Gilligan, in closing, stated that if there were questions Bob Jensen of the Board of Personal Appeals would be able answer them.

Discussion was then held by the committee.

DISPOSITION OF HOUSE BILL 220: Senator Etchart moved that page section 2, be reinserted (see standing committee report). Motion ca with Senator Mehrens opposed. Senator Etchart then moved that HB 22 AND AS SO AMENDED BE CONCURRED IN. Motion carried unanimously.

FURTHER DISCUSSION OF HOUSE BILL 242: Senator Etchart stated th something like this might drive the final nail into the Milwaukee Ra road. Senator Lee then stated that they had the five (5) year limit in which to adjust. Senator Olson stated that he felt it was more important for the railroad to maintain its tracks and the safety of passangers. Senator Smith moved that HB 242 BE CONCURRED IN. Motio carried with Senator Hazelbaker, Senator Olson and Senator Etchart opposed.

DISPOSITION OF HOUSE BILL 224: Senator Smith moved that HB 224 BE CONCURRED IN. Motion carried with Senator Mehrens abstaining and Senator Etchart opposed.

DISPOSITION OF HOUSE BILL 418: Senator Smith moved that the am ment be adopted. (See standing committee report.) Motion carried unanimously. Senator Smith moved that HB 418 AND AS SO AMENDED, BE CONCURRED IN. Motion carried with Senator Etchart opposed.

DISPOSITION OF HOUSE BILL 514: Senator Hazelbaker moved that H 514 BE CONCURRED IN. Motion carried with Senator Olson opposed.

DISPOSITION OF HOUSE BILL 257: Senator Hazelbaker moved that H 257 BE CONCURRED IN. Motion carried unanimously.

DISPOSITION OF HOUSE BILL 457: Senator Hazelbaker moved that H 457 BE CONCURRED IN. Motion carried unanimously.

ADJOURN:

There being no furhter business, the meeting was adjourned at 10:45.

Executive Order Rescinding Executive Order 6-73 and establishing procedures for the executive branch to follow in the negotiation of contracts under the provisions of Title 59, Chapter 16, R.C.M. 1947.

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b. longevity formulas

c. cost of living increases (salary schedules increases)

d. all other items authorized by Title 59, Chapter 16, R.C.M. 1947 including fringe benefits, hours, and conditions of employment.

GIVEN under my hand and the GREAT SEAL of the State of Montana this 27th day of June, in the year of our LORD, One Thousand Nine Hundred and Seventy-Five.

THOMAS L. JUDGE, Governor

ATTEST:

Secretary of State

MONTANA STATE AFL-CIO
APRIL 29 1956

Box 1176, Helena, Montana
ZIP CODE 59601

JAMES W. MURRY
EXECUTIVE SECRETARY

LUNDY SHOPPING CE
MISSOULA MONTA

REMARKS OF JIM MURRY ON HOUSE BILL 457, HEARINGS OF THE SENATE LABOR COMMITTEE, MARCH 5, 1975

Mr. Chairman, the Montana State AFL-CIO appears today in support of House Bill 457 which is an outgrowth of the state employees classification system.

The additional language means only that the state can meet the good faith requirement of the public employees collective bargaining act by submitting a negotiated settlement to the Legislature, and that failure to arrive at an agreement will not, by itself, mean that there was a failure to bargain in good faith.

We feel that clarifies the requirement by setting the ground rules under which good faith bargaining can be proven, and by which the state and the unions involved can submit an agreement forged in advance of the meeting of the legislative assembly for the legislature's action.

We realize full well that the Legislature has the sole power of appropriations and we realize that there may be a day that the Legislature will look at a negotiated agreement and say no. That is the Legislature's perogative and we would have no recourse but to go back and work with the money available should the Legislature appropriate less.

We are ready to do that, although we hope the occasion never arises. But if House Bill 457 is enacted, the executive branch will be protected from charges of bad faith if the Legislature cannot accept a bargained settlement.

So, this is simple protection for the executive branch and the workers involved in collective bargaining units. We support it and ask your approval.

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 3-5-75 House Bill No. 457 Time

NAME	YES	NO
Senator Robert Lee, Chairman	—	
Senator Richard Smith, Vice Chairman	✓	
Senator Chet Blaylock	✓	
Senator Mark Etchart	✓	
Senator Frank Hazelbaker	✓	
Senator John Mehrens	✓	
Senator Bill Norman	✓	
Senator S. A. Olson	✓	

Mary Anne Choquette
Secretary

Robert E. Lee
Chairman

Motion: Senator Hazelbaker moved HB 457 be concurred in. Motion carried unanimously.

(include enough information on motion--put with yellow copy of committee report.)

HOUSE BILL NO. 457

INTRODUCED BY GILLIGAN, JOHNSON, LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT SUBMISSION OF A NEGOTIATED SETTLEMENT TO THE LEGISLATURE MAY MEET STATE GOVERNMENT'S REQUIREMENT OF NEGOTIATING IN GOOD FAITH; AMENDING SECTION 59-1605, R.C.M. 1947."

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(2) It is an unfair labor practice for a labor organization or its agents to:

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(b) refuse to bargain collectively in good faith with a public employer, if it has been designated as the exclusive representative of employees;

REFERENCE BILL

(c) use agency shop fees for contributions to political candidates or parties at state or local levels.

(3) For the purpose of this act, to bargain collectively is the performance of the mutual obligation of the public employer, or his designated representatives, and the representatives of the exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

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~~(4)~~ (5) This act does not limit the authority of the legislature, any political subdivision or the governing body, relative to appropriations for salary and wages, hours, fringe benefits, and other conditions of employment."

-End-